

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

STEVEN MARK ZUBER

PLAINTIFF

v.

Case No. 6:17-cv-6009

FORMER SERGEANT MORROW, *et al.*

DEFENDANTS

**ORDER**

Before the Court is Plaintiff Steven Mark Zuber's Motion to Voluntarily Dismiss With Prejudice. (ECF No. 47). Defendants filed a response. (ECF No. 48). The Court finds the matter ripe for consideration.

On January 17, 2017, Plaintiff filed this action pursuant to 28 U.S.C. § 1983, alleging that Defendants violated his constitutional rights while he was incarcerated in the Hot Spring County Detention Facility. On August 6, 2018, Defendants filed a motion for summary judgment. The next day, the Court entered an order directing Plaintiff to respond to the summary judgment motion within twenty-one days. This order was not returned as undeliverable. As of the date of this order, Plaintiff has not responded to Defendants' summary judgment motion.

On October 22, 2018, Plaintiff filed the instant motion pursuant to Federal Rule of Civil Procedure 41, asking that the Court dismiss this case with prejudice. On October 26, 2018, Defendants responded, asking the Court to deny the instant motion and instead dismiss this case with prejudice for failure to prosecute this case.

Federal Rule of Civil Procedure 41 governs the dismissal of actions. An action may be dismissed by court order at the plaintiff's request, on terms the court considers proper. Fed. R. Civ. P. 41(a)(2). "Voluntary dismissal under Rule 41(a)(2) should not be granted if a party will

be prejudiced by the dismissal.” *Adams v. USAA Cas. Ins. Co.*, 863 F.3d 1069, 1079 (8th Cir. 2017).

Upon consideration, the Court finds that good cause has been shown for the motion and that no party will be prejudiced by the dismissal of this case with prejudice. Although Defendants ask the Court to deny the instant motion, the Court notes that all parties to this matter ultimately seek the same result—the dismissal of this case with prejudice. Therefore, the Court finds that Defendants will suffer no prejudice from the Court granting Plaintiff’s Rule 41 motion and dismissing this case with prejudice. Accordingly, the Court finds that Plaintiff’s motion (ECF No. 47) should be and hereby is **GRANTED**. Plaintiff’s claims against all Defendants are hereby **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED**, this 2nd day of November, 2018.

/s/ Susan O. Hickey  
Susan O. Hickey  
United States District Judge